IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1195 of 1992

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JASHVANTKUMAR K. PARMAR

Versus

SUPERITENDING ENGINEER

Appearance:

1. Special Civil Application No. 1195 of 1992

MR JV MEHTA for Petitioner No. 1

RULE SERVED BY DS for Respondent No. 1,3

MR DG CHAUHAN for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 03/09/2004

ORAL JUDGEMENT

1.0. The petitioner by way of this petition has prayed

that respondents be directed to call him for interview to the post of watchman and further to complete the formalities for the appointment of watchman.

2.0. The short facts as they emerge from the record of the petition are that the petitioner is working as daily wager as a watchman with respondent no. 2. It is the case of the petitioner that after obtaining necessary qualification, he was appointed as watchman on a monthly salary but with artificial breaks. The petitioner submitted that during the period of service with artificial breaks, no adverse remarks or reports have been passed. The petitioner further submitted that though post was sanctioned in respondent no. 2, and though he had worked for more than 240 days, his services were terminated on 30th October, 1988 and one Mr. R.L. Chamar as appointed as watchman. The petitioner further submitted that since Mr. Chamar is transferred to Patan, respondent no. 2 had again appointed him on the post of watchman on daily wage basis. The petitioner further submitted that as per Government Resolution dated 9th August, 1973, for new appointment, priority should be given to the persons who has worked as daily wager. The petitioner further submitted that by letter dated 20th August, 1980 respondent no.1. had directed the concerned department to allow the daily wager to continue on the said post and their post should be confirmed.

2.1. The petitioner further submitted that aftersome time, he came to know that the respondents have started selection procedure for filing up the post of of watchman by inviting names from the employment exchange. The petitioner submitted that in view of that he applied to the respondent vide application dated 25th July, 1991. The petitioner further submitted that though he was entitled for the call of the interview for the post of watchman, the respondents have deprived him by not calling him for the interview. Hence, he has no other option, but to approach this Court by way of this petition.

3.0. I have perused the relevant record. It appears that this Court [Coram : C.K. Thakkar, J.] on 9th March, 1992 had passed the following:-

"Though served, none appears.
By way of ad-interim relief status-quo is ordered to be continued.
Notice as to interim relief returnable on 30th March, 1992."

3.1. Since, status-quo was granted, the petitioner has worked as such all throughout. However, in view of the Government Resolution dated 17th October, 1988, the petitioner is entitled for regularization and other consequential benefits. Mr. D.G. Chauhan learned advocate for the petitioner submitted that in view of the order of this Court, the petitioner is continued in service and is granted all the benefits of Government Resolution.

4.0. Under the circumstances, the petition is allowed. The respondents are directed to grant all the benefits pursuant to the Government Resolution dated 17th October, 1988, if it is not granted so far and shall also regularize the services of the petitioner by passing appropriate order. The said exercise shall be carried out within four months from the date of receipt of this order. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

/phalguni/